LAKE COUNTY BOARD of ADJUSTMENT March 14, 2012

Lake County Courthouse Large Conference Room (Rm 317) Meeting Minutes

MEMBERS PRESENT: Sue Laverty, Mike Marchetti, Tim McGinnis, Paul Grinde

STAFF PRESENT: Joel Nelson, LaDana Hintz, Karl Smithback, Robert Costa, Lita Fonda

Mark Marchetti called the meeting to order at 3:59 pm

Motion made by Sue Laverty, and seconded by Paul Grinde, to approve the Nov. 9, 2012 meeting minutes. Vote unanimous to approve minutes.

Motion made by Paul Grinde, and seconded by Mark Marchetti, to approve the Feb. 8, 2012 meeting minutes. Motion passed, 2 in favor (Paul Grinde, Mike Marchetti) and 2 abstained (Tim McGinnis, Sue Laverty).

<u>LAKE COUNTY SEARCH & RESCUE VARIANCE—CITY-COUNTY</u> (approx. 4:03 pm)

Karl Smithback presented the staff report. (See attachments to minutes in the March 2012 meeting file for staff report.) He mentioned the newly received letters. (See attachments to minutes in the March 2012 meeting file for handouts at the meeting.) Some were in support and some were opposed.

Tim asked if the Zubowicz owners should have been contacted as adjacent owners. Karl wasn't sure. Lita thought they were next to the directly adjacent owners.

Amy Vaughn spoke as the agent on behalf of the applicants, to clarify some items in the packet and to provide background. She was a member of Search and Rescue, which existed since 1971 as a fully volunteer organization that worked for the Sheriffs Dept. The current 31-year old building was built with \$10,000 of donated material and 7 weeks of volunteer time. The property was shared with the Ronan Rural Fire Dept in Pablo. They've outgrown the facility, both in terms of volunteer staff and equipment. Most equipment was stored at members' homes. A mill levy passed 3 years ago that allowed them to have a line item and budget funding, and they've been looking at building their own facility.

Amy thought they'd done more than their due diligence, she thought, to find the best way to use taxpayer money to effectively do this, plus met the needs of the organization and its training. Main criteria included being within 5 miles of an airport, being in the high call area, and have sufficient space for training on it and in it. The high call area basically ran between Ronan and Polson. They knew there would be zoning issues, but they liked the property because it provided so many opportunities for the organization.

For instance, it was more feasible for them to do man tracker training on steep slopes over rough terrain than to go through a pasture. The natural attributes of the property were a huge benefit for them. As for residential development possibilities, Amy noted it sat next to a landfill and was also the home of the Polson Shooting Association. If she were looking to build a home, this would not be her first choice. It was a County-owned piece of property, so that was unlikely anyway.

They were asking for the zoning requirements to be varied so they could do this project. They recognized that they would have to meet the criteria of building within that zone. She thought that would make them a better neighbor than being outside of the zone, because they had to do these things. It needed to be taken into consideration that this was a community building, owned and paid for by the community. Being good neighbors was critical to their mission.

Questions raised included concerns on nuisance noise. To clarify, they weren't allowed to have sirens on their vehicles. Potential increased use of the shooting range was not a concern. The Search & Rescue volunteers were part of the Sheriffs Dept so they used the Sheriffs Dept Range. Volunteers would only be on the Polson Shooting Association Range as personal members of that association. On the questions about wireless communication impacts or towers, they had a dispatch room so they had a quiet place to listen to a portable radio when they had a search. She mentioned the line of sight to the lake. This property provided many advantages and opportunities.

Amy referred to the letter handed out tonight from Mark Nelson, who was in charge of the landfill. A concern that he shared was who would watch the landfill after it was capped, during the 30 years that it would need to be monitored. For Search and Rescue to be next door in proximity, it offered another set of eyes. They wouldn't police the area, but would be another group obviously there.

If the proposal was not approved, Amy said this piece of property would probably continue to look like an old gravel pit or blight on Kerr Dam Road. It was also a favorite haunt for partiers on weekends. When they looked on the property, that use was apparent. As far as beautifying the area, she thought they could do that and be good neighbors. This was important to them as an organization. She asked the Board to consider their variance.

Tim checked that they would have a dispatch room but no towers. Amy said no. Tim asked about signs. Amy clarified that signs they had would go on buildings, although they might put up a 'future home' sign.

Mike asked about the congestion during training and classes. How many people came in, with how many cars, and how often was this done? Amy replied the group met on Thursday nights. There might be 20 to 40 rigs. This was when they did most of their training. Sometimes they would do Saturday training when the weather was good, which might be for 3 hours. From the congestion standpoint, they wanted to make sure this facility was built for disaster relief facility as well. That was part of the reason the plans

were designed as they were, to meet the needs of the community long term. It had a commercial kitchen and the potential for community meeting. It was community owned. It was primarily their home as far as training and so forth, but they didn't want to exclude other uses.

Public comment opened:

Julie Smith: She owned the 20 acres directly across from the proposed site. They currently did not reside on the property, and stayed in the garage when they visited. They were not in favor of the variance. It was located in the middle of a residential rural area and there were no other commercial buildings visible in the area. You could see beautiful homes and open pastures. At night, when there were calls, the congestion would be noise even without sirens. The sound carried in the valley area there. It wasn't a large area. Because of the slope, most of the commercial building would be very noticeable close to the road. She didn't think she could sell her 20 acres as a residential piece when the home that would be built at the possible homesite would be looking directly across the street as a commercial building. It was a beautiful area and she thought it should be left to residential. She didn't think it was bad to have an open area, nor did she think that every piece of property that the county owned had to have something on it. It was nice to have open area that wasn't built on, and gave a lot of them a great ability to view the lake and mountains.

Ken Caffrey: He was the resident Old Timer for Search & Rescue. He joined in 1980 and helped build the Pablo building, 30 years ago. Things had changed. Then they had one van and one boat. Since then, they acquired a number of vehicles, most of which sat at his place. He'd like to see them go to where they could be centrally located. Trying to round up equipment from a number of places was tough. They had to wait for some searches. Every call they got had someone in some sort of danger. To sit and wait to round up the equipment needed to get to them wasn't good. He was a head coordinator. They needed to get things centralized in one area for time.

They didn't make much noise when they went to a search, nor did they spend much time at a building. In the summer, most searches were on the lake, and they didn't even go to the building. He aimed to address the concerns that Julie Smith had mentioned. If there were congestion, it would be after a meeting. Most people didn't arrive or leave at the same time, so the congestion wouldn't be bad. They did leave all at once at a search, but they would be gone in a very short time. It would just be vehicle noise.

Regarding the beauty of the area, if you looked at that lot, it was a long ways from beautiful. They would make it look a lot nicer, and get rid of weeds and garbage and some of the hills and knobs. The building would be close to the road because they needed the access. If you looked at the building on paper, it wasn't bad looking. It wasn't a commercial building. The word 'commercial' was misleading. They were in this to serve the people, and did a lot of this out of their own pockets. They got a mill levy, which still cost them out of their own pockets.

He had land not far from there himself. One property was east of there and one was south. He knew the area. He lived and farmed here all of his life. That one wasn't good-looking and they could improve on it. They needed the building. They had outgrown everything they had. They had 35 active members, and 60 that could come help. They needed the building for training, for offices, for storage, and for equipment. They needed this to continue to do their job fast and safely. They couldn't operate much longer out of what they had. It was too small, too old and it was getting too outdated. This was the only place they found to go.

Tim M: He asked if they had full-time staff.

Ken C and Amy V: No.

Tim M: He remarked this was a little bit in the north part of the valley. He checked that the group was okay with that.

Amy V: Returning to the idea of due diligence, they mapped both the high call area and the area where the responders who respond most often live. That was where the overlap was. Within Lake County, most of the population base resided in the Polson area. Most of the people who responded were in the Polson area, even though it was on the northern end. She and 3 other drove from St. Ignatius, but they weren't the people who got the equipment. They would go straight to the search.

Sue L: She realized it would probably varied seasonally, but roughly how many searches per month were they looking at?

Amy V: She estimated 0.75. Most searches were in the summer, usually pertaining to something between Kerr Dam and something out in the lake. As soon as the boats could be put in the water, they would go to the docks for the lake. Specific people were set aside as boat crews and they would go just to the docks. In the wintertime, the problem was because of the apparatus that needed to go on the boat, it required a larger storage facility than just going in someone's garage. That was why the building was planned for the size it was. They had 2 boats and needed to be able to put them in dry dock for ice rescue and for cold-water rescue in such a way that they could get them out quickly, so they didn't winterize the boats. They had to be able to get to them year-round.

Unidentified Speaker: Amy gave the land search numbers. Water searches were higher than that. He said there were roughly 10 searches per year on land. He guessed that water searches numbered over 50 per year.

Tim M: He was trying to get a handle on how much the building would be used. He described 'commercial' as non-residential use. It didn't have to do with whether or not you made money.

Amy V: One person showed up at 3 pm on Thursdays and left around 9 pm. The rest of them showed up about 6pm and left between 9 and 10 pm. That was the primary use.

Mike M: He referred to Amy's earlier mention of occasional Saturdays, which would be twice a week sometimes, and whenever there was a rescue.

Amy V: You would have a lot of people there at one time on Thursday nights, which would average 20 rigs. On the occasional Saturday, it might be the man-tracking team or the posse or whatever, which would break down to groups of 5 or 10 people who would come to those specific trainings.

Sue L: It didn't sound like there was that much use. She compared it to a residential home with 4 or 5 teenagers and their friends coming and going every day.

Tim M: He asked about the community involvement that Amy mentioned.

Amy V: The facility was primarily designed for Search & Rescue use. They didn't want to exclude the opportunity for the community if they needed to have a space. From a public building facility standpoint, there weren't many places to have a meeting. That was the thought process. If they needed to be able to do that, it would be set up so the meeting room and kitchen part could be locked away from the Search and Rescue critical materials. They weren't saying it would be opened up for room for rent like the Ronan Community Center. That wasn't the intention.

Mike M: He checked that there would be the building, with a shooting range on the back side, and with the landfill on another side adjacent to this property.

Joel N: The shooting range was on the property

Amy V: The location where they wanted to build was on top and the shooting range was down the steep slope. There was a hill currently between where they wanted to build and the landfill. Mark Nelson was digging out the hill and putting it on the landfill. The height of the hill when this was done would depend on how much 'cap' was put on the landfill.

Public comment closed.

Paul thought it seemed like a good use for the property although he empathized with the private property owners that didn't want that commercial. Mike said his biggest concern was how much use this represented. If this was going to be something like a store, he wouldn't even think about it. His concern-o-meter had gone way down; they had addressed questions adequately. The Board of Adjustment was there to protect the zoning and to really think about the benefit of the community when actually doing this. If it had been something other than providing a public service, he would have been hard set against this. Julie S asked if that should make a difference. Mike replied that it should. They were looking at the zones and how the regulations were written. Being that it was giving public service, and the location of the property, he didn't see how putting the building there would detract. The drawings were rough, but it didn't look horrible from

the drawings. It looked like it would add benefit to that area of the property. He didn't see how that would actually reduce the adjacent landowners' value of their property. He saw it as a benefit to the community. If the group had 5 trainings a week, that would be different. It would be too much. Sue agreed. There was a benefit to the community. For some public facilities, such as a fire department, there was benefit as far as insurance. In that respect, it was an addition to the community.

Mike gave Julie another opportunity to speak, since she had concerns. Julie said there was only insurance benefit from a fire department. She thought it should be closer to other commercial buildings and other emergency response teams. She didn't think the Board members would appreciate a commercial building being put across from a residential home, which was a potential for her lot. She thought this would reduce her ability to sell this property since they would be looking at this right across the street, on the street.

Tim disagreed in that it was a pretty mixed-use area. There were a lot of shops. Where her shop was, if you went down the topography of the property, you would have to build a house where the shop was now, or drop way down the hill. Julie said there was a plateau just beyond the shop that sat up. Tim thought there was plenty of room. Julie agreed that you'd want to be on the upper part to get the view of the lake. The view of the lake was the benefit for them in selling the property. When you looked around, there were other shop buildings, but they were attached to residential homes. Their shop had been attached too, up until the time they sold it. The shop was still used for a residential place. They had beds, bathrooms, shower, TV set and so forth. Tim said he could go along with that, but it was still a mixed-use area. Julie asked what other commercial buildings he saw there. He thought there were some home enterprises. Julie thought that was different than a commercial building. Tim said, going back to the gentleman who commented earlier, that they were there to make money. Julie agreed but she thought it would be better somewhere else, like near the new fire hall or more centrally located rather than in a rural area.

Mike asked about the equipment storage. Was the majority of the equipment to be stored inside the building? Amy said that was the thing. They had to have the equipment inside. They took care of the County equipment the best they could. She added that building in a rural residential area made them do a vegetative buffer. They recognized that the building was close to the road. They wanted to accommodate that the best they could and they wanted to do that buffer zone. The flip side was they wouldn't have to do any of that if they were building on the landfill property or 20 feet in the other direction. The Rural Residential zoning made them do things they might not have to do elsewhere. It made them be a good neighbor, not that they wouldn't be a good neighbor anyway.

Karl addressed some of the specifics. Requirements included a 20-foot buffer. The buffer could be reduced as the density of the vegetation was increased. Ken C mentioned they looked into other locations, and this was the one that worked for their needs.

Mike checked for further public comment. He closed public comment again.

Paul said his question had been if there was some other place for it. He mentioned the due diligence. That property had long been an eyesore. [Inaudible]. He thought it was a good use.

Motion made by Tim McGinnis, and seconded by Sue Laverty, to approve the variance with conditions, findings and staff recommendations. Motion carried, all in favor.

McCRUMB VARIANCE—FINLEY POINT (4:42 pm)

Robert Costa presented the staff report. (See attachments to minutes in the March 2012 meeting file for staff report.)

On condition #2, Mike checked that it proposed no events could occur on the property until that plan had been submitted and approved by the Board. Robert read the condition. It stated that a use or lease agreement would be done and given to Planning prior to the issuance of a zoning conformance permit (after-the-fact) for the barn.

Tim asked if the privacy fence was to go between the barn and the McCrumbs' residence. Robert confirmed. This would be a privacy fence, per the regulations, along all boundary lines. Dennis McCrumb asked about the height of the fence. Robert replied that the regulations didn't address what a privacy fence was. They could work on that with the McCrumbs if this was improved. Dennis said he didn't mind if it was pretty but he didn't want to put up a wall. Robert said they weren't asking for a wall.

Public comment opened:

Lucy McCrumb: She thought they'd read her letter and knew why the McCrumbs were doing this. She had little more to say.

Mike M: He asked if she had concerns about the recommendations.

Lucy M: She explained they'd been working on this since January. Staff had been helpful. They'd had a construction company there for 25 years and a storage building on the other side. The barn was empty. When the economy went down, it was a way to supplement. They didn't give a thought about problems until January. Land wasn't moving so they were forced to stay there. This was why they were asking to change a word to resort.

Darcy [Inaudible]: She was the McCrumbs' daughter, and lived on the property as well. Regarding the privacy fence, there was a fence of trees between this property and the Caballeros. Did that <u>could_count</u>-as a privacy fence? Was there a need for a privacy fence on the side with her parents' house? She thought only the front part required a fence.

Robert C: He clarified that it was the western side with the thicket and the southern side with the house. He referred to the staff report. The western portion of the southern boundary was fenced, and that might work.

Dennis: It was 20 acres away.

Robert C: It was fenced and would satisfy. The condition did not require additional fencing on the west or northern boundaries. With the southern property, the thinking was that they weren't recommending a sunset approval on this variance. It would go from now until who knows. At some point, the McCrumbs might sell the property along with the residence or the property being considered today. If the McCrumbs sold that, and [the property] still had a resort designation and was being used as such, [the situation] would need to be very clear that one lot was a home and another was the resort property.

Dennis: He said he'd like to fence it, but he wanted a nice one-rail fence rather than a huge barrier. He'd like to do so on the south and on the east sides.

Robert C: They could talk about this more. His professional opinion would be that the intent of the regulations was that it be clear what property was what. Because the regulations didn't describe what a privacy fence was, he wasn't sure if you went to the hardware store and asked for a privacy fence, whether there was something specific they'd show you.

Tim M: He wasn't sure that a privacy fence fit into the neighborhood out there. He couldn't see a big long wall there. It was a long boundary. He thought they'd want some privacy. He could see how the split rail would fit in, but that was between [the applicants and staff] to work out.

Robert C: The Board could strike the word "privacy" in the condition, if they wanted.

Mike M: He thought the point of the fence was to keep partygoers from crossing into the neighbors' property and doing things they shouldn't. He thought it was for [the applicants and staff] to negotiate on how they wanted that defined and built.

Sue L: A privacy fence was not just a land barrier. It was for privacy so you couldn't see, not necessarily a designation for the property boundary.

LaDana H: She asked about landscaping or a hedge to serve as a fence.

Sue L: [That worked] if it were something that blocked the view so you had privacy, whether it was vegetation fencing, which would have to be maintained so it wouldn't die, as opposed to fencing or boundary fencing.

Robert C: He reminded they were still requiring a vegetative strip, so a hedge would satisfy for sure.

Dennis: [Inaudible] As far as the fence went, he had no problem with it. He wanted it to look nice and fit in with the rest of the property. As far as a hedge, there were so many deer, you couldn't have a hedge.

Mike M: The community was better served if the Planning Dept defined [privacy fence] a little better after this meeting, depending on the results of this. They could determine what they meant by a fence and how that vegetative strip would be implemented.

Robert Robinson: He was a 30-year resident of Finley Point. He was sure they wouldn't find a better-maintained property. The McCrumbs would not do something to offend the neighbors. He was in support of their proposal, and thought it was a service to the community. He outlined some of his background, particularly with the state and with fire codes. He didn't know of a cleaner type of commercial operation that could be allowed than what they were doing.

Public comment closed.

Paul thought this was a very nice place for functions. It was well maintained. Band noise might be objectionable to the neighbors at night, but no neighbors had come out against this.

Sue described her comment, question and problem with this was that no permits were obtained for the many different types of operations. The zoning district was updated. Why wasn't the verbiage requested for addition for this parcel or subzone at that point? She saw it as a commercial use of the property. She felt they were grabbing straws to bend the words to support adding a commercial use to the property. She thought other channels should have been or could have been pursued, mostly in changing the zoning and getting the 'resort' verbiage put into the zoning. She thought they were manipulating the zoning. That could set a precedence that could come back to bite them down the road. She knew a lot of work went into the findings of fact, but she found them weak, in her opinion, particularly with the hardship particular to the applicants. It even said that the hardship created by not allowing this use of the property did not appear to be particular to this property. That was where she had some difficulty, with the manipulating of the finding of fact.

Tim agreed that it could have been handled much better than it was. He felt that what the Board did was adjust and try to meet the spirit and the purpose of the zoning district. He thought that was what they were trying to do here. He understood was Sue was saying. It could have been done a lot better. What they had was this was the way that this [inaudible] was allowed to meet the spirit and the purpose of the zoning regulations through this process.

Motion made by Paul Grinde, and seconded by Tim McGinnis, to approve the variance with findings of fact and staff report and recommendations. Motion carried, 3 in favor (Paul Grinde, Tim McGinnis, Mike Marchetti) and one opposed (Sue Laverty).

TABISH CONDITIONAL USE—MASUMOLA (5:06 pm)

Robert Costa presented the staff report. (See attachments to minutes in the March 2012 meeting file for staff report.) He noted there was a correction on pg. 12, where in condition #17 the building average height should be listed as 16 feet rather than 17 feet.

Tim asked if the garage took out the current bunkhouse. Robert replied the bunkhouse had already been removed. Tim checked if the garage would contain a bathroom. Jeff Gallatin replied that it would not.

Jeff Gallatin spoke on behalf of the applicant. Regarding the easement, Don Peterson had been contacted. He was the neighbor with the easement. The waterline was for a shared well for watering horses. He agreed verbally to move the waterline, and also in a fax. They would get a letter recorded. In exchange for moving the waterline, he would let them build back on the easement where the old building was, within 10 feet of the fence line.

Public comment opened: None offered. Public comment closed.

Motion made by Sue Laverty, and seconded by Paul Grinde, to approve the conditional use with finding of fact and conditions as stated, except #7 where average height should be changed to 16 feet 2 inches. Motion carried, all in favor.

VANEE CONDITIONAL USE—STONE RIDGE (5:13 pm)

Robert Costa presented the staff report. (See attachments to minutes in the March 2012 meeting file for staff report.)

Diana Luke was present on behalf of the applicant.

Public comment opened: None offered. Public comment closed.

Sue clarified with Robert that the applicant built the house and then applied for an after-the-fact permit. It was the same [pattern] with the homeowners association. Mike found that odd and Sue agreed. Paul asked if they were the original homeowners. Diana affirmed and added that she understood that Tony Vanee was one of the original developers in Stone Wall Estates. Mike checked that the homeowners association had been there since the beginning in 2008. Robert said it had been there since it was recorded. The applicant's previous agent was Lonnie Haack. He was the president of that homeowners association, and the primary subdivider of the subdivision.

Paul asked what would happen if the Board didn't approve this. He and Mike said [the project] was all there in place. Sue said it didn't look shabby. Mike put the onus back onto the County Planning Dept to make sure that they received an approval from the Homeowners Association. Robert thought it was unlikely Lonnie Haack would have too much of a problem, since he was quite involved with the project and since he was president of the Homeowners Association. Diana added that lots have sold. She wasn't

sure that he still held the majority. She further commented that the subdivision went into effect prior to the Stone Ridge Estates Zoning. She and Lonnie had discussed that when the zoning was open for review again, especially in light of the smaller lots that were proposed with community water and community sewer, maybe the regulations needed to be amended to reflect that some of the smaller lots would have larger impervious surface area. She pointed to the picture of the house and said that the house size wasn't extraordinary.

Motion made by Tim McGinnis, and seconded by Sue Laverty, to grant the conditional use with staff findings of fact and conditions recommended. Motion carried, all in favor.

Mike said someone could request a review of zoning regulations to amend them. They didn't have to wait for the County to recommend that this be done. Diana thought it was interesting that this zoning district spoke to the 'over 26%' but there was no cap. Joel noted she was a proponent at the last update that raised the impervious surface coverage for subdivisions that contemplated it, where they could go with 26% if it was contemplated during subdivision review. Prior to zoning, it wasn't contemplated. Diana thought the regulatory body would want some sort of cap. What were the other zoning districts? Sue thought most were at 49%. Joel said they'd seen over 100%.

KORELLA CONDITIONAL USE—FINLEY POINT (5:24)

Karl Smithback presented the staff report. (See attachments to minutes in the March 2012 meeting file for staff report.)

Jeff Gallatin was present on behalf of the applicant.

Public comment opened:

Bruce Stevenson: He identified himself as the property owner directly to the north. He wanted to make sure that what was built was what was approved. He didn't think it would fit with their future [inaudible] and double rail system. He thought the rails would run into the dock. The gentleman he spoke to on the property who had done the original rail system expressed doubts as to whether it would fit. There had already been simple errors from the slab to property line of 4 of 5 feet.

Karl S: The slab itself looked about right. The issue was where it was staked.

Bruce S: The slab wasn't 21 feet from the property line. He measured it about 8 years ago, and it was something like 18 or 19 feet. He asked Karl about the other distance.

Karl S: The discrepancy he found was the distances from the eaves to the property lines where it was staked. Twenty-one feet was purported. It was 18 feet on one, and 16 feet on the other when he went out there. The setback requirement was 15 feet. As far as the slab, his measurement was between 20 and 21 feet.

Bruce: He agreed that the slab error was more like 1 or 2 feet. He was concerned because the drawing was wrong, and the contractor decided to deviate from the drawings. He wondered if there were further deviations planned.

Karl S: [Bruce] prompted the subsequent site visit to see what the staking was about. It didn't match this perfectly, but still conformed to the requirements. The boathouse was set back out of the lakeshore protection zone in an area where the zoning regulations said to defer to the lakeshore regulations. The setback for a boathouse was 15 feet. It was true that he showed it set back further in this plan.

Bruce S: He didn't want to wake up and find that that boathouse was two stories or had living space. The dock wasn't on the drawings.

Unidentified Speaker: it was on there, but it was faded.

Bruce: The dock line followed parallel to the original rails. The new rail system was even more aimed towards the dock now, with the shift of the NE corner. The rails, with the new slab location, would be even more likely to go right into the dock. He summarized that he didn't want a deviation from what was approved. He requested updated drawings.

Karl S: He noted that one of the conditions for the zoning conformance permit was that staff got updated drawings with [inaudible] setback [inaudible].

Public comment closed.

Motion made by Mike Marchetti, and seconded by Paul Grinde, to approve the conditional use with findings of fact and discussions from the planning committee. Motion carried, all in favor.

OTHER BUSINESS

Mike Marchetti, chair, adjourned the meeting at 5:35 pm.